

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAY 15 2019

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

vs.

ROBERT KAITHO

Defendant.

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Criminal No. H-18-530-S

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE

(Fraud Scheme in Connection with a Major Disaster – 18 U.S.C. § 1040(a)(1))

I. The Small Business Administration

At all times material to this indictment:

1. The Small Business Administration (SBA) is an agency of the United States that provides long-term, low-interest loans to homeowners, businesses, and non-profit organizations in the aftermath of a declared disaster. SBA disaster loan proceeds are to be used solely for the repair or replacement of real estate, personal property (including motor vehicles), inventory, supplies, machinery and equipment damaged during a declared disaster or for working capital to help a small business recover from economic injury caused by a declared disaster. Individuals seeking SBA disaster loans must provide truthful and correct information to the SBA at all phases of the disaster loan process. Recipients of SBA disaster loans must repay the funds to the SBA over the term and at the interest rate designated in the disaster loan promissory note. Recipients of SBA disaster loans must return to the SBA any disaster loan disbursements not used to replace or repair property damaged by the disaster.

2. Upon a Presidential disaster declaration, an applicant may first register with FEMA to obtain a registration number. Application for assistance can be completed online for all types of SBA disaster assistance loans as well as by U.S. mail or in person. To be eligible for SBA disaster assistance loans, applicants must be located in a declared disaster area.

3. On or about August 25, 2017, President Donald J. Trump declared Hurricane Harvey that impacted the State of Texas, including the Houston area, a major disaster area under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”). As a result, residents in those affected areas were eligible to apply directly to the SBA for low interest disaster loans to repair damage to their primary residences and businesses.

II. The Scheme to Defraud the Small Business Administration

4. Beginning in or about October 2017, and continuing until in or about April 2018, in the Southern District of Texas, the defendant, **ROBERT KAITHO**, did knowingly and willfully devise and intend to devise a scheme and artifice to defraud the United States of America and the SBA to obtain money from the SBA by means of materially false and fraudulent pretenses and representations, knowing and having reason to know that such pretenses and representations were and would be materially false and fraudulent when made and caused to be made.

5. Beginning in or about October 2017, and continuing until in or about April 2018, the defendant, **ROBERT KAITHO**, made a materially false, fictitious, and fraudulent statement and representation to the SBA in an application for benefits authorized, transported, transmitted, disbursed, and paid with SBA funds in connection with the Presidential Disaster Declaration for the Houston area issued on August 25, 2017, said declaration having been made under the Stafford Act and the benefit referenced above concerned a record, voucher, payment, money, or thing of

value of the United States or any department or agency thereof; that is, the defendant, **ROBERT KAITHO**, knowingly and fraudulently represented to the SBA, during the application process for assistance pertaining to residential damage caused by Hurricane Harvey, that he sustained damage from Hurricane Harvey to property located at 10039 Cobbs Cove Lane, Houston, Texas 77004, when in fact, as he then and there knew, he did not sustain damage to the property as he represented.

6. It was part of the scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses and representations that the defendant, **ROBERT KAITHO**, applied for SBA assistance by falsely stating that he sustained damage from Hurricane Harvey to property located at 10039 Cobbs Cove Lane, Houston, Texas 77004, when in fact, as he then and there knew, he did not sustain damage to the property as claimed.

7. It was further part of the scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses and representations that the defendant, **ROBERT KAITHO**, designated his personal bank account at Wells Fargo Bank, as the payee account for any SBA disaster loan proceeds received in connection with the damages Hurricane Harvey caused to 10039 Cobbs Cove Lane, Houston, Texas 77004.

8. As a result of his scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses and representations, the defendant, **ROBERT KAITHO**, received from the SBA \$53,000.00, all of which was sent by EFT into his bank account.

All in violation of Title 18, United States Code, Section 1040.

COUNTS TWO THROUGH THREE
(Wire Fraud – 18 U.S.C. § 1343)

9. The allegations in Count 1, paragraphs 1-8, are incorporated and re-alleged as though set forth in full herein as to the scheme to defraud.

10. On or about the dates listed below, in the Southern District of Texas and elsewhere, the defendant, **ROBERT KAITHO**, for the purpose of executing the above-described scheme, did knowingly cause to be transmitted by means of wire communications in interstate commerce, certain signs, signals, and sounds, between the U.S. Department of the Treasury in Kansas City, Missouri and Wells Fargo Bank in Houston, Texas.

COUNT	ELECTRONIC TRANSFER DATE (on or about)	AMOUNT OBTAINED
2	December 13, 2017	\$25,000.00
3	January 30, 2018	\$28,000.00

All in violation of Title 18, United States Code, Section 1343.

COUNTS FOUR THROUGH FIVE
**(Engaging in monetary transactions with criminally derived property over \$10,000
in violation of 18 U.S.C. § 1957(a))**

11. The allegations in Count 1, paragraphs 1-8, are incorporated and re-alleged as though set forth in full herein as to the scheme to defraud.

12. On or about the dates set forth below, in the Southern District of Texas and elsewhere, **ROBERT KAITHO**, did knowingly engage and attempt to engage in a monetary transaction within the United States, by, through, and to, a financial institution affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such funds

having been derived from a specified unlawful activity, that is wire fraud, in violation of Title 18, U.S.C. § 1343:

Count	Date (On or about)	Monetary Transaction
4	12/19/17 12/20/17	The defendant used funds derived from fraudulent disbursements from the SBA, specifically money deposited into his Wells Fargo account, to make \$10,000 and \$15,000.00 wire transfer payments to Cash Call Mortgage.
5	2/23/18	The defendant used funds derived from fraudulent disbursements from the SBA, specifically money deposited into his Wells Fargo account, to make a \$30,633.00 wire transfer payment to J.G. in Kenya.


All in violation of Title 18, United States Code, Section 1957(a).

A TRUE BILL

Original Signature on File

FOREPERSON OF THE GRAND JURY

RYAN K. PATRICK
United States Attorney

By: 
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